

A publication of:
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WELCOME ABOARD



While our firm practices in several areas of the law, such as commercial litigation, real estate and construction, the majority of the practice is devoted to the representation of condominium and homeowner associations. We are proud to announce the addition of the following associations to our list of clientele: Hollywood Place, Eastbrook and Crystal Court 12 Condominiums in **Hollywood**, Ambassador North, Parkside, Malaga Towers, and Third Gulfstream Gardens Condominiums in **Hallandale**, Cite, Olsen Hotel and Riverview Place Condominiums in **Miami Beach**, 1500 Coral Towers Condominium in **North Miami**, Bel-Aire on the Ocean Condominium in **Aventura** and J.R. Condominium in **Hialeah**. We can assure you that we appreciate the business and confidence placed in our firm.

CONDOMINIUM ARBITRATION

(By: Eric M. Glazer, Esq.)



Although the Florida Condominium Arbitration Statute was designed to remove cases from the courtroom and place them in the hands of arbitrators at the Department of Business and Professional Regulation, a change may be brewing that allows thousands of disputes to avoid arbitration and go directly to court. In United Grand Condo Owners, Inc. v. United Grand Condominium Association, the 3rd District Court of Appeal upheld a rule by the DBPR that forbids it from deciding an arbitration case if it involves a "mixed use" condominium. In effect, the decision means that if the condominium has any commercial units, the DBPR will not hear the case and same must proceed directly to court.

PRESERVING HOMESTEAD

(By: Eric M. Glazer, Esq.)



As many of you know, the "Save our Home" amendment to the Florida Constitution placed a 3% cap on the annual assessed value of homestead property. The problem however was that the cap did not apply when the homeowner made a change, addition or improvement to the property. If a homeowner simply rebuilt the property after a hurricane, the homeowner would lose the 3% cap protection. Recognizing this dilemma, the Florida legislature amended the statute to state that changes, additions, or improvements do not include replacement of a portion of real property damaged or destroyed by misfortune or calamity when the just value of the damaged or destroyed portion as replaced is not more than 125% of the just value of the damaged or destroyed portion. In condominiums, changes, additions, or improvements include those made to common areas. In HOAs, they include improvements made to association owned property where the improvements directly benefit the homestead property. Such changes, additions, or improvements shall be assessed at just value, and the just value shall be apportioned among the parcels benefiting from the improvement.

KEYS PLEASE



Although many unit owners hate the idea of doing so, arbitration cases have repeatedly upheld the authority of the association to require unit owners to leave a duplicate key to their unit with the Board or management because the requirement is reasonably related to the promotion of health, happiness and peace of mind of the unit owners.

KEEPING IN TOUCH

(By Brian Fogelson, Office Manager)



The firm prides itself on its prompt attention to communication with its clients. In addition to ensuring that phone calls are returned by the next business day, we request that all association clients supply the firm with e-mail addresses for all Board members so that the firm may prepare a distribution list and have the ability to communicate with all Board members at once via e-mail, with the click of one button. Our attorneys have found that client communication equates with customer satisfaction. Moreover, we try to keep up with the latest technology so that results can be obtained quickly and accurately, including on-line access to the latest Florida legal opinions.

PAYING ASSESSMENTS

(By: Meredith Spira, Esq.)



As a result of Hurricane Wilma, many Associations are now borrowing money from banks in order to make necessary repairs. The Board then typically special assesses each unit in order to pay back the bank loan. Many unit owners however object to paying interest on the loan, if they can afford to pay their share of the assessment in one lump sum. A 2003 Declaratory Statement by the DBPR provides that Associations may give owners the option of paying an assessment in full and avoid paying interest or paying the assessment over a period of months and thereby incurring interest.

CONDO QUICK QUIZ

Are all contracts entered into by a condominium or homeowner's association required to be competitively bid?

No. In a condominium, competitive bidding is only required if a contract for the purchase, lease, or renting of materials or equipment, or for the provision of services, requires payment by the association that exceeds 5 percent of the total annual budget of the association, including reserves. In an H.O.A. the payment must exceed 10 percent of the budget. Contracts with employees of the association, and contracts for attorney, accountant, architect, community association manager, engineering, and landscape architect services are not subject to the competitive bidding requirement.

Is competitive bidding required if the contract was originally competitively bid and now up for renewal? In both condos and HOAs, if a contract was awarded under a competitive bid any renewal of that contract is not subject to such competitive bid requirements if the contract contains a provision that allows the board to cancel the contract on 30 days' notice.

WINDOW REPAIRS: WHO PAYS?

(By: Andrew C. Demos, Esq.)

Perhaps the most common question following Hurricane Wilma was whether the unit owner or the association was responsible for window replacement when the windows are defined as part of the "unit" in a declaration. A 2003 amendment to the Condominium Act mandates that an association must insure the property located outside the units, inside the units as initially installed, and all portions of the condominium property for which the Declaration requires coverage by the association. In interpreting this statute, the Florida Division of Condominiums recently entered a Declaratory Statement holding that a condominium association may not pass on to the unit owner the cost of replacement of a window that would otherwise be paid for from association's insurance proceeds if the policy's deductible had been met, even where the Declaration made the owner responsible for the cost of the window replacement. The rationale for this ruling is that the deductible is a common expense and that the association may not shift the cost of paying the deductible to individual unit owners. Although the Declaratory Statement is binding on the Division, it is not binding upon courts of law and to date, there have been no court cases supporting or rejecting this position.

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The primary practice of our firm is representation of condominium and homeowner associations in the South Florida area. The firm has represented hundreds of associations since its inception in 1994, regarding all facets of association law. In addition, the firm has litigated and/or arbitrated hundreds of association cases in the state courts as well as before the Division of Florida Land Sales, Condominiums and Mobile Homes, Arbitration Section.

The hiring of a lawyer is an important decision that should not be based solely upon advertisements. Before you decide, ask us to send you free written information about our qualifications and experience.